

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

February 18, 2009

Charles R. Fulbruge III
Clerk

No. 08-30406

Conference Calendar

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

EDWIN L FRANKLIN

Defendant-Appellant

Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 3:06-CR-188-1

Before HIGGINBOTHAM, DENNIS, and PRADO, Circuit Judges.

PER CURIAM:*

Edwin L. Franklin appeals the sentence imposed following his guilty plea conviction of making fraudulent claims for Hurricane Katrina-related disaster relief to the Federal Emergency Management Agency (FEMA) and with making false representations to FEMA in connection with the fraudulent claims. Franklin argues that the district court erred by denying him a two-level

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

downward adjustment pursuant to U.S.S.G. § 3E1.1 based on acceptance of responsibility.

The district court denied the downward adjustment due to Franklin's repeated use of drugs while awaiting sentencing. The district court's determination that Franklin's drug use was inconsistent with the acceptance of responsibility is not without foundation. *See United States v. Juarez-Duarte*, 513 F.3d 204, 211 (5th Cir.), *cert. denied*, 128 S. Ct. 2452 (2008); *United States v. Watkins*, 911 F.2d 983, 984-85 (5th Cir. 1990).

AFFIRMED.